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BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF:

DOCKETED BY

DOCKET NO. S-03413A-01-0000

CLAY EUGENE LAMBERT
3711 East Minton Place
Mesa, Arizona 85215
CRD No. 1959853

Respondent.

FIFTH
PROCEDURAL ORDER

BY THE COMMISSION:

On September 26, 2001, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding the Temporary Order to Cease and Desist, for Restitution, for Administrative Penalties, and for Other Affirmative Action ("Notice") against Clay Eugene Lambert ("Respondent") in which the Division alleged that Respondent has engaged in acts, practices, and transactions that constitute violations of the Arizona Securities Act ("Act").

On October 3, 2001, Respondent, through his attorney, filed a request for a hearing and a pre-hearing conference.

On October 5, 2001, the Commission issued a Procedural Order that set this matter for a pre-hearing on November 26, 2001.

On November 26, 2001, the pre-hearing was held as scheduled. Both parties appeared with counsel. Counsel for Respondent argued that the bankruptcy proceeding stayed this matter and cited as authority 11 U.S.C. § 362(A)(1). The Division argued that the proceedings should not be stayed as this hearing is exempt pursuant to 11 U.S.C. 362(A)(4).

The Administrative Law Judge took the matter under advisement and asked both sides to

1 prepare briefs on the issue. In addition, the Administrative Law Judge directed Respondent to file
2 with the Commission a notice of the bankruptcy filing that was referenced during the pre-hearing.

3 On December 31, 2001, Respondent filed a Notice of Filing Bankruptcy Information.

4 On January 31, 2001, the Division filed a Brief Re: Applicability of Automatic Bankruptcy
5 Stay, 11 U.S.C. § 362(A).

6 On February 1, 2002, the Respondent filed its position regarding the bankruptcy issue.

7 On February 22, 2002, the Commission issued a Procedural Order that ruled the automatic
8 stay is not applicable to the instant proceeding and affirmed the March 5, 2002 hearing date.

9 On March 1, 2002, Respondent filed a Motion to Continue. Subsequently, the parties and the
10 Administrative Law Judge held a telephonic conference to discuss the Motion to Continue.

11 On March 11, 2002, the Commission issued a Procedural Order that reset the hearing for
12 April 10, 2002, based upon the arguments made at the telephonic conference.

13 On April 8, 2002, Mr. Salcido, the attorney for Mr. Lambert, filed a Notice of Withdrawal of
14 Counsel.

15 On April 10, 2002, the parties appeared for the hearing scheduled in this matter. Mr. Lambert
16 was represented by Mr. Salcido. Mr. Salcido introduced Mr. Lawrence Moon and indicated that if
17 his Motion to Withdraw was granted, Mr. Lambert intended to hire Mr. Moon to represent him in this
18 matter. The Division also appeared and was represented by counsel.

19 Before the hearing commenced, the Commission addressed Mr. Salcido's Motion to
20 Withdraw. Mr. Salcido argued that, because Mr. Lambert is in bankruptcy, Mr. Salcido's firm has not
21 been appointed by the Bankruptcy Court to represent Mr. Lambert and since Mr. Lambert already
22 owes his firm a substantial amount of money, continuing to represent Mr. Lambert would cause a
23 financial hardship to Mr. Salcido's firm. Mr. Salcido also argued that Mr. Moon, although not
24 prepared to proceed with the hearing on this date, was willing to represent Mr. Lambert and substitute
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1 in as counsel for Mr. Salcido and his firm. Mr. Salcido further argued that since Mr. Lambert is no
2 longer working in the Securities arena, no prejudice or harm would result in a short delay in this
3 proceeding. The Division opposed Mr. Salcido's Motion and requested that the hearing proceed as
4 scheduled.

5 The Administrative Law Judge then questioned Mr. Moon about his availability to proceed to
6 hearing if a short continuance was granted. The Administrative Law Judge also informed Mr. Moon
7 that if he was going to represent Mr. Lambert, that it was his responsibility to be appointed by the
8 Bankruptcy Court and the hearing would take place on June 3, 2002, regardless of his appointment by
9 the Bankruptcy Court. Mr. Moon indicated that he was willing to abide by those conditions and he
10 still wished to represent Mr. Lambert in this matter.

12 Based upon the arguments presented, Mr. Salcido's Motion to withdraw as counsel was
13 denied. However, the Administrative Law Judge ruled that Mr. Moon and Mr. Salcido could
14 represent Mr. Lambert as co-counsel with Mr. Moon as lead counsel. Based on that ruling, the
15 Administrative Law Judge continued the matter until June 3, 2002, and redirected the Respondent to
16 inform the Bankruptcy Court of the proceedings in this case and to request certain information from
17 the Bankruptcy Court.

19 Accordingly, the hearing in this matter should be rescheduled.

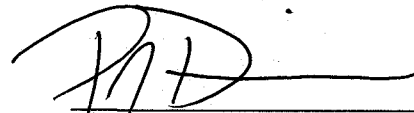
20 IT IS THEREFORE ORDERED that the hearing in this matter should be continued and
21 rescheduled to June 3, 2002 at 10:00 a.m., at the Commission offices, 1200 West Washington Street,
22 Phoenix, Arizona.

23 IT IS FURTHER ORDERED that the Respondent shall obtain an affidavit or other Minute
24 Entry filing from the Bankruptcy Court that states the position of the Bankruptcy Court regarding the
25 Commission's ability to proceed in this case, order restitution, order a fine and/or suspend or
26 terminate Mr. Lambert's securities license by June 3, 2002 at 10:00 a.m.
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IT IS FURTHER ORDERED that the parties shall exchange witness lists and exhibits no later than ten days before the hearing and provide a copy of the same to the presiding Administrative Law Judge, unless otherwise ordered by the Administrative Law Judge.

IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 16 day of May, 2002.



PHILIP J. DION III
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 16 day of May, 2002.

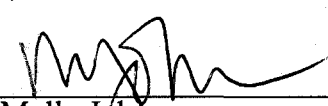
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By: 
Molly Johnson
Secretary to Philip J. Dion III